IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 578 OF 2007

IN

CRIMINAL APPEAL NO. 473 OF 2007

Macchindra D. Jagkar .... Applicant

Vs.

State of Maharashtra .... Respondent
(Guhagar Police Station)

Mr. A.V. Pawaskar i/b Khandeparkar and Associates for the Applicant.

Mr. Y.S. Shinde, APP for the Respondent.

CORAM : J.H. BHATIA, J.
DATE : 7TH JUNE, 2007

P.C.

1) Heard Mr. Pawaskar, learned counsel for the applicant and Mr. Shinde, learned APP.

2) Perused the impugned judgment. The applicant- original accused no. 1 was convicted for the offence punishable under Section 304 (II) of Indian Penal Code and was sentenced to suffer R.I. for five years and to pay fine of Rs.1,000/-. By this application, he seeks bail pending his appeal.

3) It appears that the applicant and deceased Sunil were real brothers. There was some dispute between them because of property as well as on the ground that Sunil had got married without consent of the applicant. The incident took place on 21/06/2005 at about 1.30 pm.. According to the prosecution, the present applicant and his wife who was accused no. 2 and who is since acquitted, abused deceased- Sunil and also beat him with kicks and fists blows. The present applicant took a fire wood stick and beat his brother who sustained injury on his neck, due to which he fell down and died. As per Post Mortem report, he had died due to haematoma below the occipital region.

4) Learned counsel for the applicant pointed out that the complainant, who is sister of accused and deceased, deposed only about a stick blow on the neck, but not about any blow on the head. Anyhow these aspect can be considered at the time of final hearing of the appeal. The fact remains that the present applicant is in custody for last about two years and taking into consideration the total sentence and the fact that the matter is not likely to be disposed of within a short time, the applicant may be granted bail.

5) The applicant be released on bail on his executing P.R. bond of Rs.15,000/- with surety in like amount subject to depositing the fine amount.

(J.H. BHATIA, J.)